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IN THE
COURT OF APPEALS OF INDIANA

VINCE EDWARD WILLIAMS,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 57A04-0802-CR-88
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE NOBLE COUNTY SUPERIOR COURT
The Honorable Michael J. Kramer, Judge
Cause No. 57D02-0711-CM-1158

July 9, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

FRIEDLANDER, Judge

Vince Williams pleaded guilty to Driving While Suspended with a Prior Conviction,[1] a class A misdemeanor. On appeal, Williams argues that his 180-day sentence is inappropriate.

We affirm.

On November 16, 2007, Williams was driving a vehicle in the area of State Road 3 and County Road 100 S in Noble County, Indiana. At that time, Williams's license was suspended, and he knew it. Williams had a previous driving while suspended conviction within the past ten years.

On November 26, 2007, the State charged Williams with driving while suspended with a prior conviction, a class A misdemeanor. At his January 4, 2008 guilty plea hearing, Williams testified that he was driving on the day in question because he was trying to find a job. Williams further admitted that he had "a couple" of prior driving while suspended convictions and that he was on probation for sexual misconduct. *Transcript* at 9. On that same date, the trial court sentenced Williams to 180 days imprisonment, which is half of the maximum sentence the court could have imposed.[2]

On appeal, Williams argues that his 180-day sentence is inappropriate. Pursuant to Indiana Appellate Rule 7(B), we "may revise a sentence authorized by statute if, after due consideration of the trial court's decision, [we find] that the sentence is inappropriate in light of the nature of the offense and the character of the offender." In reviewing the appropriateness of the sentence imposed, we recognize the special expertise of the trial courts

[1] Ind. Code Ann. § 9-24-19-2 (West, PREMISE through 2007 1st Regular Sess.).

[2] Ind. Code Ann. § 35-50-3-2 (West, PREMISE through 2007 1st Regular Sess.) ("[a] person who commits a Class A misdemeanor shall be imprisoned for a fixed term of not more than one (1) year").

in making sentencing decisions and thus, we exercise with great restraint our responsibility to review and revise sentences. *Scott v. State*, 840 N.E.2d 376 (Ind. Ct. App. 2006), *trans. denied*. We further note that upon appeal, the burden is upon the defendant to persuade us that his or her sentence is inappropriate. *Childress v. State*, 848 N.E.2d 1073 (Ind. 2006).

With respect to the nature of the offense, we recognize, as urged by Williams, that his offense did not result in a traffic accident and or cause any harm. Nevertheless, Williams was driving above the posted speed limit – traveling at 66 mph in a 50 mph zone. Although the prosecutor stated that Williams's speed was "not exactly reckless", he noted that it was "certainly not safe". *Transcript* at 10. To be sure, traveling at a speed more than 15 mph over the posted speed limit certainly endangers others.

With respect to his character, Williams asserts that his actions were "with the best of intentions" because he was seeking employment. *Appellant's Brief* at 3. We agree with the State, however, that seeking employment is not an acceptable reason for breaking the law. Williams also notes, and the State acknowledged, that he pleaded guilty at the "earliest opportunity". *Transcript* at 10. A guilty plea, however, does not rise to the level of significant mitigation where the defendant has received a substantial benefit from the plea or where the evidence against him is such that the decision to plead guilty is merely a pragmatic one". *Wells v. State*, 836 N.E.2d 475, 479 (Ind. Ct. App. 2005), *trans. denied*. Here, Williams's decision to plead guilty was clearly a pragmatic decision.

We further note that Williams's history demonstrates his disregard for the law. Dating back to 1986, Williams has a history of driving violations and suspensions. But for a five-and-one-half-year period of incarceration (from June 2002 until his release on September 18,

2007, just prior to the instant offense), Williams repeatedly committed violations. To be sure, the deputy prosecutor noted that Williams's driving record showed so many infractions and misdemeanors that he "[couldn't] even count them all". *Transcript* at 10. The trial court further noted that Williams had five driving while suspended violations and that it had been over twenty-one years since Williams had possessed a valid driver's license. Williams also admitted to being on probation for sexual misconduct at the time he committed the instant offense.

Having reviewed the record, we conclude that there is nothing about the nature of the offense or Williams's character that weighs against the reasonableness of the sentence imposed.

In a related matter, Wallace contends that we should remand this matter to the trial court for a new sentencing order because the sentencing order entered by the trial court fails to state the sentence imposed or placement. On July 3, 2008, the State filed a "Suggestion of Possible Mootness" with this court and attached a copy of an amended sentencing order, dated April 29, 2008, that correctly sets forth the sentence imposed.[3] This issue is therefore moot.

Judgment affirmed.

KIRSCH, J., and BAILEY, J., concur

[3] The trial court's oral sentencing statement clearly sets forth the sentence imposed as 180 days. Further, the record includes a copy of the "Commitment to the Noble County Jail", which likewise provides that the sentence imposed was 180 days. *Appendix* at 23.